IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER TWO THOUSAND AND TWENTY ONE

PRESENT

THE HONOURABLE SRI JUSTICE T.AMARNATH GOUD

CIVIL REVISION PETITION NO: 765 OF 2021

Petition under Article 227 of the Constitution of India preferred to the High Court against the Order dated 29.01.2021 in I.A.No.789 of 2019 in O.S.No.301 of 2012 on the file of the Senior Civil Judge at Nalgonda.

Between:

1. Vangala Ravinder Reddy, S/o. Ram Reddy, Aged about 50 years, Occupation. Agriculture, R/o. Shivanaggudem Village, Marriguda Mandal, Nalgonda District.
2. Kumbam Surendar Reddy, S/o. Narsimha Reddy, Aged about 50 years, Occupation. Employee, R/o. Indurthi Village, Marriguda Mandal, Nalgonda District

...PETITIONERS/PLAINTIFFS

AND

1. U. Venkatamma, W/o. Late Narsimha, aged about 60 years, Occupation. Agriculture, R/o. Sarampet Village, Marriguda Mandal, Nalgonda District.
2. U. Ramaswamy, S/o. Late Narsimha, aged about 35 years, Occupation. Agriculture, R/o. Sarampet Village, Marriguda Mandal, Nalgonda District.

...RESPONDENTS/DEFENDANTS

IA NO: 1 OF 2021

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to stay all further proceedings in suit bearing number O.S. No. 301 of 2012 pending before the Hon'ble Senior Civil Judge at Nalgonda, pending adjudication of Civil Revision Petition.

Counsel for the Petitioners: SRI ANAND KUMAR KAPOOR

Counsel for the Respondents: SRI MUNGALA NARAYANA RAO

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

C.R.P.No.765 of 2021

ORDER:

This Civil Revision Petition is directed against the order dated 29.01.2021 in I.A.No.789 of 2019 in O.S.No.301 of 2012 on the file of the Senior Civil Judge, Nalgonda (for short, "trial Court").

2. The brief facts of the case are that the petitioners/plaintiffs filed a suit for perpetual injunction. In the said suit, the respondents/defendants filed an agreement of sale alleged to have been executed by one Gunreddy Malla Reddy and Chirapu Narsi Reddy in the year 2000 and they want to get it marked. The petitioners/plaintiffs opposed on the ground that the said document requires registration since the sale consideration is more than Rs.20,000/-; and that as per Section 17(1)(g) of Registration Act, an agreement of sale of immovable property of the value of Rs.100/- and upwards shall be required to be registered. The only exception is when the said documents is considered in a suit for specific performance of sale in which case it need not be registered. Since the suit is filed for injunction, the said un-registered document cannot be received in evidence or considered for any purpose and not even for collateral purpose and thus, the said document is inadmissible in evidence and is liable to be rejected.

3. The respondents/defendants filed a counter denying the averments stating that the vendors of the defendants have executed agreement of sale in the year 2000 and delivered vacant possession

of the suit land to the respondents and since then, they are in peaceful possession and enjoyment of the same. The respondents filed an agreement of sale alleged to have been executed by their vendors dated 29.12.2000 along with other documents. While marking the documents in B-Series, the Court directed to pay the deficit stamp duty and penalty by way of impounding and directed the Superintendent to collect the deficit stamp duty. Accordingly, the trial Court has collected 10 times to the original agreement of sale.

4. The trial Court, on consideration of the record, declined to accept the plea of the petitioners and dismissed the interlocutory application. Aggrieved thereby, the present CRP is filed.

5. The learned counsel appearing for the petitioners/plaintiffs submitted that the agreement of sale alleged to have been executed by the vendors of the respondents, requires registration since the sale consideration is more than Rs.20,000/-. He further submitted that as per Section 17(1)(g) of Registration Act, an agreement of sale of immovable property of value of Rs.100/- and upwards shall be required to be registered and as such, the said document cannot be received in evidence.

6. On the other hand, the learned counsel for the respondents/defendants submitted that the said document can be received for collateral purpose of proving possession as stamp duty was already paid. In support of his contention, he relied on the

decisions reported in **Vengalapudi Manga Vs. Paluri Kannabbai & others[1], K.R.Subrahmanyam Vs. A.Raja Reddy[2]** and **Sardar Ram Singh V. Sardar Ram Singh[3]**.

7. Admittedly, the document dated 29.12.2000 is an agreement of sale for the value more than Rs.100/- and therefore, it requires registration as per Section 17 of the Registration Act. Section 49 of the Registration Act also lays down the effect of non registration of documents required to be registered, if not registered, shall not affect any immovable property comprised therein or such document shall be received as evidence of any transaction affecting such property.

8. The proviso to Section 49 of the Registration Act, would show that an unregistered document affecting immovable property and required by 1908 Act or the Transfer of Property Act, 1982 to be registered may be received as an evidence to the contract in a suit for specific performance or as evidence of any collateral transaction not required to be effected by registered instrument. By virtue of the said proviso, an unregistered sale deed of an immovable property of the value of Rs.100/- and more can be admitted in evidence as evidence of any collateral transaction not required to be effected by registered document.

9. Admittedly, it is a case of injunction and granting injunction and the issue of possession, balance of convenience and irreparable

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[1] 2013 5 ALD 170
[2] 2002 5 ALT 404
[3] 2004 (4) ALD 735

loss will be considered. The issue of possession is taken for consideration and to prove the possession, the document, which is un-registered is placed on record has been considered. It is not a case of declaration of title, where the statutory requirement that the document needs to be registered.

10. In catena of judgments, the Apex Court held that the sale deed even though is not admissible in evidence can be looked into for collateral purpose to show the nature of possession of the parties over the suit land. The trial Court has passed a just and reasonable order and as such, the said order needs no interference.

11. For the aforesaid reasons, the Civil Revision Petition is dismissed, confirming the order dated 29.01.2021 in I.A.No.789 of 2019 in O.S.No.301 of 2012 on the file of the Senior Civil Judge, Nalgonda. No order as to costs. As a sequel, miscellaneous petitions, if any, pending in this Civil Revision Petition shall also stand dismissed.

SD/-B.SATYAVATHI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Senior Civil Judge, Nalgonda.
2. One CC to Sri Anand Kumar Kapoor, Advocate [OPUC]
3. One CC to Sri Mungala Narayana Rao, Advocate [OPUC]
4. Two CD Copies
5. One Spare Copy

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HIGH COURT

DATED: 14/09/2021

ORDER

CRP.No.765 of 2021

DISMISSING THE CRP

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21/9/2021